

ADRIENNA WONG
(State Bar No. 282026)
awong@aclusocal.org
ACLU FOUNDATION OF
SOUTHERN CALIFORNIA
225 West Hospitality Lane, Suite 211
San Bernardino, CA 92408
Telephone: (909) 380-7510
Facsimile: (909) 915-1194

BELINDA ESCOBOSA HELZER
(State Bar No. 214178)
bescobosahelzer@aclusocal.org
ACLU FOUNDATION OF
SOUTHERN CALIFORNIA
1851 East First St., Suite 450
Santa Ana, CA 92705
Telephone: (714) 450-3962
Facsimile: (714) 543-5240

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

VICTOR VALLEY FAMILY
RESOURCE CENTER, a non-profit
corporation; SHARON GREEN,
individually; DANIEL AVILA,
HAROLD BATTS, DAVID DEEN,
CHRIS DOWDY, RENEE GULLETT,
and NICHOLAS HOLT-FRANCIS
individually, and on behalf of all others
similarly situated,

Plaintiffs,

vs.

CITY OF HESPERIA, a California
general law city; JOHN McMAHON, in
his official capacity; ERNESTO
MONTES, in his official capacity; and
DOES 1 through 25, in their official and
individual capacities,

Defendants.

CASE NO. 5:16-CV-00903

CLASS ACTION

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF
AND DAMAGES**

First, Fourth, and Fourteenth
Amendments to the United States
Constitution (42 U.S.C. § 1983); article
I, sections 1, 7, 13, 24 and article XI,
section 7 of the California Constitution.

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. Plaintiff Victor Valley Family Resource Center (“VVFRC”) is a non-
3 profit charitable organization dedicated to reducing homelessness and recidivism by
4 providing homeless and previously incarcerated individuals with the skills,
5 resources, and supports they need to successfully reintegrate into the community.
6 VVFRC offers transitional housing and service interventions targeting the time-
7 sensitive needs of people in reentry. VVFRC’s programs are based on the
8 understanding that homelessness increases the risk of incarceration and re-
9 incarceration, but connecting people to housing and services works to reduce
10 recidivism. VVFRC is also based on the principle that people who have encountered
11 challenges in the past nevertheless deserve to have their rights respected, to be
12 treated with dignity, and to be afforded opportunities to establish healthy and
13 meaningful lives.

14 2. Plaintiffs Daniel Avila, Harold Batts, David Deen, Chris Dowdy, Renee
15 Gullet, Nicholas Holt-Francis, and those similarly situated are individuals who are
16 on probation who have faced homelessness, and who are current beneficiaries of
17 VVFRC’s efforts.

18 3. The types of services provided by VVFRC are a crucial component of
19 the state of California’s recent and ongoing overhaul of its criminal justice system,
20 which aims to reduce the state’s inmate population and better promote public safety
21 by focusing on rehabilitation and prevention measures.

22 4. Defendants are city of Hesperia officials, and those working on its
23 behalf, who are intent on obstructing what California lawmakers, voters, and the
24 United States Supreme Court believe to be a necessary reorientation of California’s
25 criminal justice system. Defendants fear that state criminal justice reforms, such as
26 California’s Public Safety Realignment Act (AB109) and the Safe Neighborhoods
27 and Schools Act (Proposition 47), will cause an influx of people with criminal
28 records to move into Hesperia, threatening their preferred “demographic” for the

city. Rather than participate in statewide efforts to safely reintegrate individuals with criminal records into the community, Defendants have enacted and enforced municipal ordinances designed to exclude such individuals from housing in the city.

5. Defendants continue to engage in policies and practices that limit the housing options for persons on probation, prohibit transitional supportive housing, and incite landlords to evict tenants like Plaintiff VVFC and its clients. By doing so, Defendants not only violate Plaintiffs' constitutional and statutory rights, but also compromise public safety, increase homelessness, and deprive the region of successful integrative and supportive services that make all Hesperia residents safer.

6. Accordingly, Plaintiffs bring this litigation against Defendants for violations of the First, Fourth, and Fourteenth Amendments to the United States Constitution (42 U.S.C. § 1983), as well as article I, sections 1, 7, 13, 24 and article XI, section 7 of the California Constitution.

JURISDICTION AND VENUE

7. The Court has jurisdiction over the federal civil rights claims under 28 U.S.C. §§ 1331 and 1343. The Court has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(a).

8. Venue is proper in the Central District of California under 28 U.S.C. § 1391(b). Defendants are located in the Central District and all of the acts and/or omissions complained of herein have occurred or will occur in this District.

PARTIES

Plaintiffs

9. Plaintiff VICTOR VALLEY FAMILY RESOURCE CENTER ("VVFC") is a non-profit 501(c)(3) tax-exempt charitable organization whose mission is to provide mental, economic, and educational services to at-risk and underserved residents of San Bernardino communities. VVFC's office is located in the city of Hesperia ("City"). VVFC has been doing business in the City since 2009 and has a valid business license to do so.

1 10. Plaintiff VVFC provides transitional housing and services to
2 individuals who are homeless or at risk of becoming homeless. It rents and manages
3 residential homes in Hesperia, which provide transitional supportive housing to
4 persons on probation who would otherwise be homeless. The municipal code
5 provisions and Defendants' actions challenged in this case directly harm VVFC,
6 as well as frustrate VVFC's mission and prompt the diversion of its limited
7 resources.

8 11. Plaintiff SHARON GREEN is the founding Director and Chief
9 Executive Officer of VVFC. She is the lessee of some of the homes the
10 organization manages in Hesperia to provide transitional supportive housing to its
11 clients.

12 12. Plaintiff DANIEL AVILA is a resident of the city of Hesperia and a
13 client of VVFC's transitional supportive housing program. He resides in one of
14 the houses that VVFC rents and manages in Hesperia. Avila is on probation and
15 lives with other VVFC clients who are also on probation.

16 13. Avila was referred to VVFC by the San Bernardino County Probation
17 Department. Before the Probation Department connected him to VVFC, Avila had
18 been periodically homeless and cycling in and out of jail for eight years. In the past,
19 when Avila was released from jail, he would have nowhere to go, and nothing to eat.
20 He would end up in unstable environments that exacerbated his drug addiction.

21 14. Currently, however, Avila has stable housing in a home he shares with
22 people who support and inspire him. Avila is now sober and participating in a
23 program that will help him maintain that sobriety. With VVFC's help, Avila
24 enrolled in Medi-Cal and, for the first time in eight years, obtained his birth
25 certificate and social security card – vital documents that prepare him to secure
26 employment. With VVFC's assistance, Avila is in the process of looking for a job
27 and getting his driver's license.

28

1 15. Plaintiff HAROLD BATTS is a resident of the city of Hesperia and a
2 client of VVFC's transitional supportive housing program. He resides in one of
3 the houses that VVFC rents and manages in Hesperia. Batts has been a resident of
4 Hesperia since 1975. Currently, Batts is on probation and lives with other VVFC
5 clients who are also on probation.

6 16. When Batts was released from custody, he initially went to live with
7 his daughter, but was unable to stay because her landlord would not permit another
8 resident in the unit. As a result, Batts became homeless. Batts' probation officer
9 then referred him to VVFC.

10 17. Batts now has reliable housing that helps him comply with the terms of
11 his probation and stay in touch with his probation officer. Batts has benefitted from
12 the support of other residents of the home and VVFC staff, who have connected
13 him with employment opportunities. He received funding for training to become a
14 truck driver and is hopeful that he will have permanent employment soon. For the
15 time being, however, Batts would have nothing to fall back on if he were denied
16 access to VVFC's transitional housing program; if forced to leave his current
17 residence, he would likely become homeless again.

18 18. Plaintiff DAVID DEEN is a resident of the city of Hesperia and a client
19 of VVFC's transitional supportive housing program. He resides in one of the
20 houses that VVFC rents and manages in Hesperia. Deen is on probation and lives
21 with other VVFC clients who are also on probation.

22 19. When Deen was first released from custody, he stayed in motel rooms
23 that he paid for with money he earned by serving as a firefighter with the state's
24 inmate fire camp program. After a few days, however, that money ran out, and he
25 had nowhere else to live. At that point, the Probation Department referred him to
26 VVFC.

27 20. Deen now has a home where he can sleep safely at night. That home
28 serves as a base of operations from which Deen can apply for jobs and educational

1 opportunities. VVFCRC staff have helped Deen with referrals to counseling,
2 connections to job centers, and other aspects of reentry. Deen believes he can make
3 a new start from this home. If he was forced to leave the house where he currently
4 lives, however, he would be back on the street.

5 21. Plaintiff CHRIS DOWDY is a resident of the city of Hesperia and a
6 client of VVFCRC's transitional supportive housing program. He resides in one of
7 the houses that VVFCRC rents and manages in Hesperia. Dowdy is on probation and
8 lives with other VVFCRC clients who are also on probation.

9 22. Dowdy was referred to VVFCRC by the San Bernardino County
10 Probation Department upon his release from custody. Previously, Dowdy lived with
11 his sister. While Dowdy was in jail, however, his sister lost her house and was forced
12 to move out of state. As a result, Dowdy faced homelessness upon his release.

13 23. VVFCRC helped Dowdy avoid homelessness. In the home where he
14 now lives, Dowdy participates in what he describes as an "environment of mutual
15 accountability"; he and fellow residents hold each other accountable for their
16 behavior and remind each other to take caution when they are at risk of violating the
17 terms of their probation. Dowdy has benefitted from the guidance of his VVFCRC
18 case manager, who helps him set and meet goals. The two men attend church
19 together weekly. With VVFCRC's assistance, Dowdy has obtained a driver's license,
20 enrolled in a workforce training class, secured and maintained a full time job, and is
21 in the process of receiving his GED. Dowdy credits VVFCRC with putting him on
22 the path to becoming a productive member of society.

23 24. Plaintiff RENEE GULLET is a resident of the city of Hesperia and a
24 client of VVFCRC's transitional supportive housing program. She resides in one of
25 the houses that VVFCRC rents and manages in Hesperia. Gullet is on probation and
26 lives with other VVFCRC clients who are also on probation.

27 25. Gullet was referred to VVFCRC by San Bernardino County Probation
28 Department in January 2016. Prior to that, she was living in a homeless shelter.

1 26. Gullett has a criminal record related to her past drug addiction, but she
2 is sober now. The women she currently lives with have been supportive of her
3 recovery and reentry. She considers the women in the home to be their “own little
4 family.” They work together to do chores and keep the house clean. VVFC staff
5 have also provided Gullett with substantial support. She is making progress towards
6 a sustainable, stable life because of the resources that VVFC offers her. She
7 sometimes has temporary work and is seeking permanent employment. She is
8 interested in the possibility of renting her own apartment in Hesperia.

9 27. Plaintiff NICHOLAS HOLT-FRANCIS is a resident of the city of
10 Hesperia and a client of VVFC’s transitional supportive housing program. He
11 resides in one of the houses that VVFC rents and manages in Hesperia. Holt-
12 Francis is on probation and lives with other VVFC clients who are also on
13 probation.

14 28. At the age of 19, Holt-Francis became homeless for roughly a year
15 before he was incarcerated. When Holt-Francis was released from custody, he was
16 homeless again, so the San Bernardino County Probation Department referred him
17 to VVFC.

18 29. Holt-Francis now has stable housing that allows him to more easily
19 comply with the terms of his probation so he can avoid re-incarceration and focus
20 his energies on building a sustainable life for himself. If he were still homeless, he
21 would have to travel to the Probation Department office in Victorville to check in
22 on a daily basis; if he simply missed an appointment to do so, the Probation
23 Department could issue a warrant for him or send him to prison. Now, the Probation
24 Department knows where Holt-Francis is every day, can more easily check in on
25 him, and does not require him to travel to Victorville every morning.

26 30. Holt-Francis likes the house where he lives, and the people with whom
27 he shares his home. He enjoys the sober living environment, which allows him to
28 focus on looking for work. It helps him to be around other people who have a

1 positive outlook and are seeking employment like him. If he was forced to leave the
2 house where he lives now, he would be homeless again.

3 **Defendants**

4 31. Defendant CITY OF HESPERIA (“City”) is an incorporated
5 municipality located in San Bernardino County. It is a general law city and adopts
6 municipal ordinances through a five-member city council. These ordinances are
7 enforced by the Hesperia Police Department, which is staffed by employees of the
8 San Bernardino County Sheriff’s Department; the City contracts with the San
9 Bernardino County Sheriff’s Department for police services. The City Code
10 Enforcement Division also enforces Hesperia’s municipal ordinances.

11 32. Defendant JOHN McMAHON is the Sheriff of San Bernardino County.
12 The San Bernardino County Sheriff’s Department, which includes the Hesperia
13 Police Station, is under his command. The San Bernardino County Sheriff’s
14 Department provides police services to the City of Hesperia by contract. In
15 providing police services to the City, San Bernardino County Sheriff’s officers
16 manage general law enforcement within the City, including patrol services, traffic
17 enforcement, and criminal investigations. They also network with a variety of law
18 enforcement partners such as City Code Enforcement, Parole, and Probation.
19 Defendant McMahon is sued in his official capacity.

20 33. Defendant ERNESTO MONTES is a Code Enforcement officer for the
21 City. Plaintiffs are informed and therefore believe that Montes is an employee of
22 the City. Defendant Montes is sued in his official capacity.

23 34. Each of the complained violations of law were committed by
24 Defendants, their officials, agents, and employees, acting under color of law.

25 35. The true names and capacities, whether individual, corporate, associate,
26 representative or otherwise, of the defendants identified as Does 1 through 25,
27 inclusive, are unknown to Plaintiffs, who therefore sue these defendants by such
28 fictitious names. Plaintiffs will amend this complaint to allege the true names and

capacities of Does 1 through 25 when they have been ascertained. Does 1 through 25 are in some manner legally responsible for the wrongs and injuries alleged herein.

STATEMENT OF FACTS

Victor Valley Family Resource Center

36. Plaintiff Green is the founding Director and Chief Executive Officer of Victor Valley Family Resource Center. She is currently the Chair of San Bernardino County's Homeless Provider/Partnership Network, is on the San Bernardino Interagency Council on Homelessness, and is on the San Bernardino Reentry Collaborative Board.

37. In years past, Green, who is presently a pastor at a local church in Hesperia, went through a difficult divorce, which left her homeless. When she got back on her feet she did not want anyone to have to experience homelessness as she had. As a result of her experience, Green founded VVFC in 2009 to provide housing and supportive services for individuals experiencing homelessness or at risk of becoming homeless.

38. VVFC's transitional housing program provides housing and supportive services to individual clients for up to one year. The program is based, in part, on a Housing First model. The Housing First model is a proven method of addressing homelessness, and is considered the most effective approach to ending chronic homelessness. Programs based on the Housing First model offer individuals and families experiencing homelessness immediate access to housing. Like other programs utilizing the Housing First approach, VVFC's transitional housing program addresses housing as the priority need of the individual, then leverages the resulting relationship it has with its clients to address underlying individual needs.

39. In addition to providing their clients with a place to live, VVFC provides wraparound support services to its clients, including, but not limited to, case management, counseling, and anger management training. The organization connects its clients to alcohol and substance abuse programs, job centers, and

1 educational programs. Additionally, VVFC partners with Wells Fargo to provide
 2 financial literacy training to its clients so that they can sustain and manage their own
 3 finances after they leave the VVFC program. VVFC works with other
 4 organizations to identify permanent housing options for its clients. The
 5 organization's ultimate goal is to help clients navigate the transition from the
 6 transitional housing program to permanent housing and/or family reunification.

7 40. VVFC's transitional housing program provides "critical time
 8 interventions." Researchers have conceptualized reentry as a pivotal time period in
 9 the lives of formerly institutionalized people, requiring interventions that target the
 10 time-sensitive needs people experience as they transition back to the community.
 11 Research shows that "critical time interventions" improve outcomes of people
 12 reentering the community.

13 41. VVFC has approximately twenty-six employees, a majority of whom
 14 have experienced homelessness and/or have been at risk of being homeless. VVFC
 15 believes that it is a critical part of rehabilitation and reintegration into the community
 16 for its staff to relate to and share experiences with its clients. That VVFC's staff
 17 can identify with the experiences of its clients builds trust and mutual respect, which
 18 is at the core of the organization's success.

19 ***Victor Valley Family Resource Center's Clients***

20 42. VVFC's clients are usually referred to the organization's transitional
 21 supportive housing program by the courts, the San Bernardino County Probation
 22 Department, or the San Bernardino County Department of Behavioral Health.
 23 VVFC also works in collaboration with the San Bernardino County Sheriff's
 24 Department's Homeless Outreach and Protective Enforcement ("HOPE") Team,
 25 which links homeless individuals with resources and service providers throughout
 26 San Bernardino County. The HOPE Team's stated objective is to "stop the revolving
 27 door of arrest, incarceration, and then release regarding homeless related crimes."
 28

43. Approximately ninety percent of VVFC's clients have experienced alcoholism or drug addiction. About seventy percent of its clients have a disability in addition to or separate from alcoholism or addiction, such as depression, Post-Traumatic Stress Disorder, diabetes, and/or degenerative disc disease, to name a few. If a prospective client's mental health is not manageable through medication, or if the individual is a sex offender, the individual will not be placed in the VVFC program, but will instead be placed in a specific home through the San Bernardino County Department of Behavioral Health or other entity.

44. When clients enter VVFC's program, they are required to sign a program contract agreeing to adhere to VVFC's policies. For example, VVFC's clients must be sober, search for work, be willing to do chores around the house, and keep their bedrooms clean.

45. VVFC has an eighty to eighty-five percent success rate, meaning that after its clients graduate from the transitional supportive housing program, they remain employed and/or enrolled in school and have permanent housing. According to VVFC's records, ninety-four percent of its clients in reentry do not recidivate.

VVFC's Transitional Supportive Housing Program in Hesperia

46. VVFC currently rents and maintains three homes as part of its transitional supportive housing program, all of which are located in Hesperia. The three houses are owned by three separate owners and are located on La Crescenta Street ("La Crescenta House"), Hollister Street ("Hollister House"), and Azalea Springs Avenue ("Azalea House"). The homeowners are all aware of and support VVFC's transitional supportive housing program.

47. In many respects, each transitional home is like any typical residential home. There is a great room with sofas where residents watch television together. There is a kitchen and dining area where residents cook and eat with each other and VVFC's on-site staff. Residents sleep and keep their personal belongings in their bedrooms. They play basketball together and garden in the backyard. They leave

1 to go to work and return home at the end of the work day.

2 48. In other words, the transitional homes are residential uses. There are
3 no activities taking place at the homes that might cause any unusual increase in
4 traffic or noise. Indeed, it is the job of the on-site VVFC staff to ensure that the
5 environment of each home is suitably residential.

6 49. VVFC opened the La Crescenta House in 2011 and the Hollister and
7 Azalea Houses in 2015. Plaintiffs are informed and believe that there have been no
8 substantive complaints from neighbors regarding those homes or its residents. The
9 homes look no different than any other home in the neighborhood.

10 50. Although VVFC offers housing and supportive services for up to one
11 year, its clients generally transition to permanent housing within six to nine months.
12 VVFC can serve up to 80 individuals a year.

13 51. From July 2012 to June 2015, VVFC received Community
14 Development Block Grants from the city of Hesperia to provide homeless and
15 transitional housing services. VVFC received its first one-year grant in July 2012,
16 which was renewed in 2013 and 2014. Hesperia included VVFC in the City's
17 General Plan and listed the organization as a resource for special needs groups –
18 "Homelessness and Persons in Poverty" – in its 2013 to 2021 Housing Element.

19 52. In 2013, VVFC competed with four other vendors and successfully
20 obtained a contract with the County of San Bernardino Probation Department to
21 provide housing services for "AB 109/Adult Probationers" who are considered
22 homeless and under the supervision of the Probation Department. The term of the
23 contract is three years with the option to extend two additional one-year terms. The
24 County's Board of Supervisors approved the agreement on October 22, 2013. It
25 became effective November 1, 2013.

26 53. The contract mandates that VVFC maintain confidentiality in the
27 delivery of its housing services. Accordingly, VVFC stores all information
28 regarding its clients in a locked filing cabinet behind two locked doors. The

1 organization's internal practice is to identify clients by their first initial and last name
2 only.

3 54. Currently, all of VVFC's clients are on probation. Probation officers
4 come to the VVFC houses about three times a week to conduct probation checks.
5 Having VVFC clients living together in VVFC houses makes the Probation
6 Department's job easier and increases the chances that VVFC's clients will
7 succeed and meet the conditions of their probation. Probation officers know where
8 the individuals they supervise are, that they have a curfew, and that they are
9 employed or actively looking for work or going to school.

10 55. The San Bernardino County Probation Department is impressed and
11 pleased with VVFC's program. It refers to the program as a model for transitional
12 supportive housing service programs. In fact, the Probation Department has
13 suggested that the County not exercise its option to renew the current contract, but
14 instead have VVFC reapply through a new Request for Proposal to expand its
15 transitional supportive housing program to the cities of San Bernardino, Rancho
16 Cucamonga, and Yucca Valley.

17 ***California's Public Safety Reforms (AB 109 and Proposition 47)***

18 56. On May 23, 2011, in *Brown v. Plata*, 563 U.S. 493 (2011), the United
19 States Supreme Court ordered that California significantly reduce its prison
20 population. At the time, California prisons held nearly twice as many people as they
21 were designed to house, despite a significant increase in prison construction. The
22 Court held that this overcrowding subjects inmates to horrific conditions sufficient
23 to constitute cruel and unusual punishment prohibited by the Eighth Amendment to
24 the United States Constitution.

25 57. In response, the state of California enacted state-wide criminal justice
26 reforms through "California's Public Safety Realignment Act" or "AB 109". In
27 enacting such reforms, the Legislature recognized that "[c]riminal justice policies
28 that rely on building and operating more prisons to address community safety

concerns are not sustainable, and will not result in improved public safety.” CAL. PENAL CODE § 17.5(3) (West 2016). The Legislature also recognized that California’s recidivism rate for individuals who have served time in prison – 57.8% – far outpaced the national average. *See id.* § 17.5(2).

58. Affirming the state’s “commitment to reducing recidivism among criminal offenders,” AB 109 redirected resources from building more prisons to investing in “more cost-effective, evidence-based strategies that increase public safety,” such as community-based residential programs, like Plaintiff VVFC’s program, which offer “structure, supervision, drug treatment, alcohol treatment, literacy programing, employment counseling, psychological counseling, mental health treatment or any combination of these and other interventions.” CAL. PENAL CODE § 17.5.

59. Research on how local governments approached AB 109 realignment indicates that formerly incarcerated people do better in counties that emphasize and invest in reentry services; in contrast, recidivism has increased in counties that responded to realignment by prioritizing enforcement.¹

60. In 2014, California voters passed Proposition 47, the Safe Neighborhoods & Schools Act. Proposition 47 reclassified six low-level drug and property felonies to misdemeanors in order to reduce spending on incarceration. It mandated that the savings from reduced incarceration be reallocated towards local prevention, treatment, and rehabilitation programs.

Hesperia’s Group Home Ordinance

61. In 2007, Defendant City adopted Ordinance No. 2007-07, which enacted Hesperia Municipal Code section 16.16.072, regulating “residential care facilities, group homes, and sex offender residency.”

¹ Public Policy Institute of California, *Do Local Realignment Policies Affect Recidivism in California* (August 2014), available at <http://www.ppic.org/main/publication.asp?i=1111>.

1 62. The ordinance broadly defines “group homes” as “any residential
2 structure or unit, whether operated by an individual for profit or nonprofit entity,
3 which is not licensed by the state of California, and which houses individuals not
4 related by blood or marriage” (hereinafter, the “Group Home Ordinance”).
5 HESPERIA, CAL., CODE § 16.16.072(B) (2007).

6 63. The ordinance requires a conditional use permit for certain types of
7 permissible “group homes.” *Id.* § 16.16.072(D). The ordinance outright prohibits
8 “group homes” that house two or more individuals on probation. *Id.* §
9 16.16.072(C)(2).

10 64. Defendant City’s enactment of the Group Home Ordinance was based
11 on the discriminatory assumption that homes and services for probationers are
12 inherently illegitimate. The City’s staff report on the ordinance explicitly
13 distinguished group homes providing services to probationers from group homes that
14 provide “legitimate services.” The staff report did not contain or reference any
15 evidence supporting the determination that services for probationers are not
16 “legitimate services.”

17 65. The legislative record for the Group Home Ordinance does not contain
18 evidence of actual problems arising from the co-habitation of people on probation in
19 Hesperia. Instead, the staff report, recorded minutes of the Planning Commission,
20 and City Council minutes make clear that the ordinance was motivated by anxiety
21 relating to the mere presence and proximity of parolees and sex offenders in the
22 community. The legislative record reflects that people on probation were simply
23 swept up in that amorphous anxiety.

24 66. The Group Home Ordinance rests on unsubstantiated fears and
25 irrational prejudice. The legislative record and the text of the Group Home
26 Ordinance itself demonstrate that the City was not responding to adverse impacts
27 actually or imminently caused by residents of “group homes,” residents of “parolee
28 homes,” or sex offenders, much less persons on probation – only the speculative

1 “possibility” that their presence alone might “change the character of residential
2 neighborhoods” and “create concerns for the safety and welfare of [other] residents.”

3 67. The enactment and enforcement of the Group Home Ordinance has
4 been consistently motivated by the negative attitudes of City officials and some
5 Hesperia residents regarding individuals in reentry and the presumed residents of
6 “group homes.” Defendants have targeted VVFCRC for selective, aggressive, and
7 *ultra vires* enforcement of the Group Home Ordinance in response to negative
8 attitudes about the organization’s clients expressed by neighbors of the Chase House
9 (one of VVFCRC’s transitional housing homes in Hesperia, which VVFCRC closed
10 soon after it opened) and by current City Council members.

11 ***Hesperia’s Rental Housing Ordinance***

12 68. In November 2015, the City adopted Ordinance No. 2015-12, requiring
13 “the registration and regulation of housing rental businesses for crime free rental
14 housing” (hereinafter, the “Rental Housing Ordinance”).

15 69. The Rental Housing Ordinance, now codified in Hesperia Municipal
16 Code, Chapter 8.2, requires landlords to provide their tenants’ personal information
17 to the Hesperia Police Department for purposes of a background check and
18 registration of tenants in a City database administered by the police. The ordinance
19 requires landlords to independently conduct an additional criminal background
20 check on the tenant, and to keep the results of that check on file at all times.

21 70. The Rental Housing Ordinance also requires landlords to initiate
22 eviction proceedings within ten days if the chief of police provides notice that a
23 tenant has engaged in “criminal activity.” *Id.* § 8.20.050(C)(1). “Criminal activity”
24 may be based on any alleged violation of federal, state, or local law or a record of a
25 call for service; no conviction or even arrest is required before the police issue a
26 notice. A landlord is subject to fines and administrative citation if he or she does
27 not comply with the ordinance’s requirements.

28

1 71. The Rental Housing Ordinance went into effect on January 1, 2016.
2 The Hesperia Police Department announced that property managers, owners, and
3 landlords would have until March 31, 2016 to achieve compliance with the
4 ordinance.

5 72. Defendant City enacted the Rental Housing Ordinance in reaction to a
6 perceived demographic shift within the City. City Council members passed the
7 ordinance to stem and reverse the perceived influx of residents of lesser economic
8 means, who City officials believe are more prone to engage in criminal activity and
9 more likely to have criminal records.

10 73. The City's intent in passing the Rental Housing Ordinance was to
11 uproot and exclude groups the City Council deems undesirable, in order to restore
12 and preserve the demographic profile preferred by City officials. In discussing the
13 proposed Rental Housing Ordinance at a City Council meeting, Council Member
14 Russ Blewett stated that he supported passing the ordinance "to correct a
15 demographical problem" in Hesperia. He stated: "We better improve our
16 demographic."

17 74. City officials adopted the ordinance for the purpose of driving out a
18 perceived excess of renters who live in low-income or affordable housing. In a
19 meeting discussing the proposed ordinance, City Council member Mike Leonard
20 stated: "Our rental housing, and our section 8 housing . . . is just crazy high. And
21 you know we've had a lot of people move in from over the hill who are not very
22 friendly people. We need to work on getting them out of here. . . . [T]hese people
23 who are sucking up section 8 housing, we need to get 'em out." In the same meeting,
24 another council member stated: "The people who aggravate us . . . come here for
25 affordable housing because the state forces us to give them affordable housing. They
26 come here for a lot of reasons. But we all know there's a significant number of them
27 that come from somewhere else with their tainted history."
28

1 75. Defendant City also passed the Rental Housing Ordinance in reaction
2 to prejudices and unsubstantiated fears relating to the AB 109 population and
3 individuals benefitting from sentence reductions under Proposition 47. The City's
4 intent in passing the ordinance was to exclude these groups specifically, and people
5 with criminal records in general, from housing in the City. At a City Council
6 meeting discussing the Rental Housing Ordinance, a council member stated, in
7 support of the measure: "With Prop 47 . . . the problem is going to get a lot worse.
8 We have no way to stop the state from passing laws from putting criminals in our
9 cities. If we don't get ahead of it now and get a handle on it, we're going to get a lot
10 more criminals in our cities. With what the state has done to us, if we don't get a
11 handle on things, our crime rate will skyrocket. And that is unfair to the people who
12 own homes."

13 76. At a public presentation in March 2016, the Hesperia Police explained
14 that the Rental Housing Ordinance was intended to achieve through civil law what
15 criminal law could not, due to state reforms like AB 109 and Proposition 47. One
16 officer stated, inaccurately, that Proposition 47 made all felonies misdemeanors, and
17 AB 109 releases high risk criminals to the public, "so they're out here running
18 around with us."

19 77. The City's intent in passing and enforcing the Rental Housing
20 Ordinance is to prevent people in reentry from living in the City. During a
21 presentation to the public, the Hesperia Police explained that the ordinance's purpose
22 is to keep individuals with criminal records "out of rental properties," in order to
23 "cut crime city-wide." Hesperia Police officials stated that the ordinance is intended
24 to "predict criminals through extensive background checks" so "bad guys never
25 move in" and "their bad friends don't visit." In a City Council meeting discussing
26 the proposed ordinance, Council Member Blewett stated, about people with criminal
27 records: "I want them the hell out of my town, and I don't care where they go.
28

1 Because those kinds of people, I don't care what fair housing says about them, but
2 those people are of no addition and no value to the community."

3 78. The Rental Housing Ordinance uses the language of municipal law to
4 stigmatize residential renters. The ordinance is accompanied by a declaration of
5 purpose that identifies occupants of residential rental properties as the cause of
6 illegal activity, public nuisances, decline in property values, and "a disproportionate
7 share of code enforcement and law enforcement calls for service."

8 79. However, the evidence received by the City Council during
9 consideration of the Rental Housing Ordinance does not support the ordinance's
10 declaration of purpose. The Captain of the Hesperia Police reported that City crime
11 had decreased in recent years, even though, according to City Council members,
12 more low-income renters had been moving into the City during the same time period.
13 The staff report and the oral report of the Captain of the Hesperia Police indicated
14 that roughly one third of law enforcement calls for service came from rental
15 properties. According to the 2014 Census, roughly one third of Hesperia residents
16 live in rental properties; the City Council was made aware of this fact during a public
17 meeting discussing the Ordinance.

18 ***Enforcement of the Group Home and Rental Ordinances***

19 80. Defendants never enforced the Group Home Ordinance against
20 VVFCRC until 2015, even though they knew that VVFCRC had been offering
21 transitional supportive housing in Hesperia since 2011.

22 81. In January 2015, VVFCRC began offering transitional supportive
23 housing at a new location, in a leased house on Chase Avenue in Hesperia
24 (hereinafter, the "Chase House"). Neighbors of the house immediately began
25 complaining to city officials that they felt threatened by the presence of the home
26 and its residents.

27 82. Plaintiffs are not aware of any specific complaint of crimes allegedly
28 committed or an increase in criminal activity in the neighborhood connected to the

1 Chase House – only that neighbors complained that they did not feel that the
2 residents of the house should be living in the neighborhood.

3 83. In response to the negative attitudes expressed by the neighbors of the
4 Chase House, Defendants issued notices of violation to the homeowner and to
5 Plaintiff Green under Hesperia Municipal Code sections 16.16.072(C)(1) and (C)(2),
6 demanding that they “[c]ease operation of a group home consisting of two or more
7 unrelated parolees, sex offenders and/or two or more individuals on probation.” The
8 notices also indicated that if they failed to comply, further action would be taken and
9 could include criminal prosecution and/or recordation of property with abatement
10 fees.

11 84. In February 2015, VVFCRC stopped providing housing at the Chase
12 House in response to the City’s actions and harassment of its clients by neighbors.
13 VVFCRC was concerned for the safety of their clients, so it provided them with
14 alternative housing, to the extent possible, in other homes.

15 85. At a March 3, 2015 City Council meeting, Hesperia’s Director of
16 Development, Scott Priester, stated: “I’m up here to give an update on some
17 concerns expressed on a group home that was established on Chase Avenue. Staff
18 was made aware of this late January, early February and we began code enforcement
19 activities.”

20 86. Hesperia’s mayor and City Council members applauded neighbors and
21 City staff for causing VVFCRC to stop offering transitional supportive housing at the
22 Chase House. Council member Paul Russ stated: “I just appreciate what everybody
23 has done. The staff jumped on this because there was concern in the neighborhood
24 and you can do a lot of things if everybody works together.” Mayor Pro Tem Bill
25 Holland stated: “[G]reat job citizens, this one is for you.” Council member Russell
26 Blewett stated: “I want to compliment the staff for jumping on this . . . including the
27 police department and code enforcement, but it was really neighborhood driven and
28 you guys can give yourselves a big pat on the back[.]” Blewett also opined that the

1 neighborhood where the Chase House was located was a “totally inappropriate
2 place” for VVFC clients to live.

3 87. Defendants’ enforcement actions were not limited to the Chase House.
4 In or around May 2015, City Code Enforcement began issuing citations for violation
5 of the Group Home Ordinance to the landlords of other houses where VVFC’s
6 clients live, including the La Crescenta House. Code Enforcement again demanded
7 that they cease operation of group homes “consisting of two or more unrelated
8 individuals on probation.” VVFC paid the fines that Code Enforcement imposed
9 on the La Crescenta House under duress.

10 88. After receiving numerous citations from Defendants, as well as a letter
11 stating that the City was placing a Notice of Pendency on the La Crescenta property,
12 the owner of the La Crescenta House initiated eviction proceedings against VVFC
13 in August 2015. After some negotiations with VVFC, the City agreed not to
14 prosecute the prior citations or issue new citations against VVFC for violation of
15 section 16.16.072 while it “reviewed its enforcement policies as they relate[d] to
16 transitional housing.” The City cautioned, however, that its “forbearance [was]
17 temporary.” Thereafter, the La Crescenta landlord dismissed the eviction
18 proceedings.

19 89. Defendants’ forbearance was indeed temporary. In February 2016,
20 Defendants once again began enforcing the Group Home Ordinance against
21 VVFC.

22 90. Defendants have issued notices of violation, notices of public nuisance,
23 and citations to each of the three homes where VVFC offers transitional housing,
24 asserting violations of the Group Home Ordinance. Defendants now assert that
25 VVFC is in violation of the Group Home Ordinance’s conditional use permit
26 requirement, and claim that VVFC is operating a business in the City without a
27 business license. As Defendants know, VVFC already has a business license to
28 operate in the City, and VVFC and its landlords are precluded from obtaining a

1 conditional use permit to continue offering the transitional housing currently
2 available in the three houses, because the Group Home Ordinance specifically
3 prohibits residences housing more than one person on probation. Defendants have
4 disregarded VVFC's repeated attempts to clarify the basis of its enforcement
5 actions.

6 91. Defendants have continued to escalate their enforcement of the Group
7 Home Ordinance against VVFC. Since March 2016, Defendants have issued near-
8 daily fines for asserted violations of the Group Home Ordinance at VVFC's
9 transitional homes. Defendant Ernesto Montes, a code enforcement officer, stated
10 that he will continue to issue fines in the amount of \$1,000 per day for each house
11 until the homes are in compliance with the Group Home Ordinance.

12 92. To date, Defendants have issued citations demanding payment of fines
13 totaling approximately \$15,000 on each of VVFC's three houses.

14 93. On April 6, 2016, Plaintiff Green, by and through her legal
15 representative, sent Defendants a Notice of Violation of Constitutional Rights
16 pursuant to Section 5 of the Group Home Ordinance (Ordinance No. 2007-07).
17 Section 5 states that any person can give "notice to the City Manager that the
18 provisions of this Ordinance, on its face or as applied to that person, violates his or
19 her Constitutional rights." Section 5 provides that upon such notice any enforcement
20 action must be stayed until an administrative hearing is completed. To date,
21 Defendants have not responded to Plaintiff Green's notice, scheduled an
22 administrative hearing, or ceased enforcement actions under the Group Home
23 Ordinance. Defendants continue to issue citations and fines under the Group Home
24 Ordinance to VVFC houses.

25 94. Plaintiffs Green and VVFC have provided copies of the Notice of
26 Violation of Constitutional Rights to Defendant Montes. Nevertheless, Defendant
27 Montes continues to issue citations and fines under the Group Home Ordinance to
28 VVFC houses on a near-daily basis.

1 95. In addition to enforcing the Group Home Ordinance, Defendants are
2 now also enforcing, or threatening to enforce, the Rental Housing Ordinance against
3 VVFC, its landlords, and its clients.

4 96. Starting in early 2016, Defendants began sending letters and placing
5 phone calls to the landlords of the houses where VVFC provides transitional
6 housing, making vague allegations of “criminal activity” taking place at those
7 residences in violation of the Rental Housing Ordinance. *See* HESPERIA, CAL., CODE
8 § 8.20.050(C)(1). By notifying the landlords of unspecified and unsubstantiated
9 “criminal activity,” and by specifically invoking the Rental Housing Ordinance,
10 Defendants’ intent is to incite VVFC’s landlords to evict VVFC and its clients
11 under the ordinance.

12 97. Indeed, the landlord of the La Crescenta House, by and through his
13 legal representative, recently served VVFC with a notice to quit. The notice to quit
14 asserted that VVFC was in breach of a term of its lease that required it to comply
15 with the law; the notice attached a copy of a letter that Deputy Necochea of the
16 “Hesperia Sheriff’s Station” sent to the homeowner, which asserted that there was
17 “ongoing criminal activity” at the house. The letter provided no further detail about
18 any alleged crime, but stated that the Rental Housing Ordinance prohibited such
19 activity.

20 98. Defendants are also demanding that VVFC turn over its client roster
21 and its clients’ personal identifying information to comply with the Rental Housing
22 Ordinance’s tenant registration requirements.

23 99. Defendants have also directed VVFC’s landlords to provide the
24 Hesperia Police Department with “tenant screening information” to comply with the
25 Rental Housing Ordinance.

26 100. Plaintiffs desire and intend to continue renting and residing in Hesperia.

27 101. As the date for implementation of the Rental Housing Ordinance has
28 passed, the threat that Defendants will take further action to enforce that ordinance

1 against Plaintiffs is presently very real.

2 ***Harm to Plaintiffs***

3 102. The owners of the three houses that VVFCRC rents and manages in
 4 Hesperia to provide transitional supportive housing are increasingly anxious about
 5 Defendants' enforcement actions. Although they do not want to evict VVFCRC and
 6 its clients from the houses that they own, they state that they will be forced to do so
 7 if Defendants do not discontinue their enforcement actions. In fact, the owner of the
 8 La Crescenta House has already served Plaintiffs VVFCRC and Green with a three-
 9 day notice to quit and has indicated that eviction proceedings are imminent.

10 103. Therefore, VVFCRC is in danger of losing the sites in Hesperia where it
 11 provides its most crucial social services to its clients.

12 104. VVFCRC's clients are individuals who would be homeless if not for the
 13 housing provided by the organization. Accordingly, the Defendants' enforcement
 14 actions place the organization's clients, including Plaintiffs Avila, Batts, Deen,
 15 Dowdy, Gullett, Holt-Francis, and those similarly situated, at risk of homelessness,
 16 as well as interruption of services and the accompanying loss of employment,
 17 rehabilitative, and educational opportunities. These Plaintiffs also risk losing
 18 opportunities to associate with one another in the close, mutually supportive reentry
 19 environment of their current homes.

20 **CLASS ALLEGATIONS**

21 105. Plaintiffs seek to have a class certified under Rule 23 of the Federal
 22 Rules of Civil Procedure.

23 106. The class represented by the individual plaintiffs is defined as the class
 24 of all persons who rent, reside, or would reside in VVFCRC transitional supportive
 25 housing homes in the city of Hesperia. A subclass represented by a subclass of
 26 individual plaintiffs is defined as the class of all present and future VVFCRC clients
 27 who are on probation and live or seek to live in VVFCRC's transitional supportive
 28 housing homes in the City of Hesperia.

1 107. The class is so numerous that joinder of all members is impractical.
2 Plaintiffs believe that currently there are about 40 individuals who are subject to
3 Defendants' unlawful policies, practices and customs and about 80 individuals each
4 year hereafter who would be similarly harmed. There are questions of law and fact
5 in common to all members of the class. The claims of the representative parties are
6 typical of the claims of the class members. The representative parties will fairly and
7 adequately represent the interests of the class.

8 108. Defendants' policy or practice will affect all members of the class in
9 the same way, because Defendants' policy or practice violate and continue to violate
10 class members' constitutional and statutory rights. Injunctive relief enjoining
11 Defendants from enforcing the Group Home Ordinance and the Rental Housing
12 Ordinance against Plaintiffs and those similarly situated would remedy these
13 problems class-wide, and is therefore appropriate to the class as a whole.

14 109. The common questions of law and fact to be determined are whether
15 the Group Home Ordinance and the Rental Housing Ordinance are unconstitutional
16 on their face and as applied to Plaintiffs. These questions of law and fact are common
17 to all members of the class and predominate over any question affecting individual
18 class members.

19 110. No notice is required for a class certified under FED. R. CIV. P. 23(b)(2)
20 unless the Court directs that such notice be given.

21 111. The claims of the class representatives are typical of the claims of the
22 class members. Like the proposed class members, the named Plaintiffs are harmed
23 by Defendants enactment and implementation of the Group Home Ordinance and
24 the Rental Housing Ordinance.

25 112. The class representatives know of no conflict of interest among class
26 members. Plaintiffs are represented by pro bono counsel from the ACLU
27 FOUNDATION OF SOUTHERN CALIFORNIA. The ACLU and their attorneys
28

1 have extensive civil rights litigation experience and broad experience litigating class
2 actions.

3 **FIRST CLAIM FOR RELIEF**

4 **Group Home Ordinance**

5 **Violation of the Fourteenth Amendment (42 U.S.C. § 1983)**
6 **and California Constitution, art. I, § 7 (Equal Protection)**

7 113. Plaintiffs reallege and incorporate by reference each and every
8 allegation set forth in the preceding paragraphs as though fully alleged herein.

9 114. The Group Home Ordinance (HESPERIA, CAL., CODE § 16.16.072
10 (2007)) is invalid on its face and as applied to Plaintiffs and those similarly situated,
11 because it illegally discriminates against people on probation.

12 115. The Group Home Ordinance unconstitutionally distinguishes between
13 people who are related by blood or marriage, and those who are not.

14 116. The law prohibits residential structures that house more than one person
15 on probation not related by blood or marriage, but it does not preclude two or more
16 people who are not on probation from sharing a household, even if they are unrelated
17 by blood or marriage.

18 117. The Group Home Ordinance impinges the fundamental rights of people
19 on probation and it is not narrowly tailored to serve a compelling government
20 interest.

21 118. The Group Home Ordinance was enacted for the illegitimate purpose
22 of expressing hostility and animus against a politically unpopular group:
23 probationers. The intent and effect of the Group Home Ordinance is to cause harm
24 to people on probation.

25 119. The Group Home Ordinance bears no rational relationship to any
26 legitimate City interest. The Group Home Ordinance is not rationally related to any
27 City interest it purportedly serves.
28

SECOND CLAIM FOR RELIEF

Group Home Ordinance

Violation of the Fourteenth Amendment (42 U.S.C. § 1983)

and California Constitution, art. I, § 7 and 24

(Right to Travel, to Move Freely, and to be Free from Banishment)

120. Plaintiffs reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs as though fully alleged herein.

121. The Group Home Ordinance (HESPERIA, CAL., CODE § 16.16.072 (2007)) is invalid on its face and as applied to Plaintiffs and those similarly situated, because it bars people on probation from moving into VVFCRC's transitional homes specifically, and prevents them from traveling to and establishing residence in Hesperia in general – insofar as there is little to no residential housing in the City accessible to them.

122. Defendants' prohibition against probationer homes is an unconstitutional effort to "banish" people on probation – particularly individuals on probation who are homeless or at risk of becoming homeless – from the city of Hesperia, especially its residential neighborhoods.

123. The Group Home Ordinance, and Defendants' application of its restrictions, is not narrowly tailored to serve a compelling government interest. Neither does it substantially relate to a sufficiently important government interest.

124. The Group Home Ordinance bears no rational relationship to any legitimate City interest. The Group Home Ordinance is not rationally related to any City interest it purportedly serves.

THIRD CLAIM FOR RELIEF

Group Home Ordinance

Violation of the First and Fourteenth Amendment (42 U.S.C. § 1983)

and California Constitution, art. I, § 1

(Right to Privacy and Free Association)

125. Plaintiffs reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs as though fully alleged herein.

126. The Group Home Ordinance (HESPERIA, CAL., CODE § 16.16.072 (2007)) is invalid on its face and as applied because it violates the privacy and association rights of people on probation by prohibiting their co-habitation, by limiting their rights to choose their household companions, and by denying them the ability to live in the type of intimate, mutually supportive, and spiritually engaged environment provided by VVFCRC's transitional homes. These rights are fundamental.

127. The Group Home Ordinance, on its face and as applied to Plaintiffs and those similarly situated, unconstitutionally distinguishes between residents of shared households who are related by blood or marriage, and those who are not. The law requires a conditional use permit for residential structures that house more than one person not related by blood or marriage. It does not require a conditional use permit for residential structures that house multiple people related by blood or marriage. The law prohibits shared households for persons on probation unrelated by blood or marriage, but it does not prohibit shared households for persons on probation who *are* related by blood or marriage.

128. The Group Home Ordinance, and the Defendants' application of its restrictions, is not narrowly tailored to serve a compelling government interest. Neither does it substantially relate to a sufficiently important government interest.

129. The Group Home Ordinance bears no rational relationship to any legitimate City interest. The Group Home Ordinance is not rationally related to any City interest it purportedly serves.

FOURTH CLAIM FOR RELIEF

Group Home Ordinance

State Preemption

California Constitution, art. XI, § 7

130. Plaintiffs reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs as though fully alleged herein.

131. Under California Constitution, article XI, section 7, “[a] county or city may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” If local legislation conflicts with state law, it is preempted and is void.

132. The Group Home Ordinance (HESPERIA, CAL., CODE § 16.16.072 (2007)) conflicts with state law because it duplicates, contradicts, or enters an area fully occupied by general law, either express or by legislative implication. Therefore, it is preempted and void.

133. The panoply of state laws governing the sentencing, supervision, and rehabilitation of persons on probation impliedly preempt the Group Home Ordinance by fully occupying the field of regulations concerning those persons' daily lives. The Group Home Ordinance conflicts with state law by imposing a blanket housing restriction on all persons on probation, whereas state law calls for an individualized, case-by-case determination.

134. The Group Home Ordinance and Defendants’ actions are expressly preempted by state housing law, because it contradicts and therefore conflicts with provisions of Senate Bill 2 and California Government Code section 65583 related to transitional housing, which provide that “[t]ransitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.”

FIFTH CLAIM FOR RELIEF

Rental Housing Ordinance

**Violation of the Fourteenth Amendment (42 U.S.C. § 1983)
and California Constitution, art. I, § 7 (Equal Protection)**

1 135. Plaintiffs reallege and incorporate by reference each and every
2 allegation set forth in the preceding paragraphs as though fully alleged herein.

3 136. The Rental Housing Ordinance (HESPERIA, CAL., CODE § 8.20.050
4 (2015)) violates equal protection, on its face and as applied, because it discriminates
5 against residential renters and their families. The law requires renters to: (a) provide
6 their personal identifying information, including government-issued photo
7 identification, to their landlords and to Defendants; (b) register in Defendants' Crime
8 Free database, which maintains files on residential tenants that associate their
9 personal information and present and past home addresses with information culled
10 from police call logs; (c) sign lease addendums containing terms mandated by the
11 Rental Housing Ordinance; and (d) vacate their residence if Defendants provide a
12 notice of criminal activity to their landlords. The Ordinance does not impose such
13 requirements on individuals who own their homes or on commercial/business
14 renters.

15 137. The Rental Housing Ordinance impinges the fundamental rights of
16 residential renters and landlords, and is not narrowly tailored to serve a compelling
17 government interest.

18 138. The Rental Housing Ordinance was enacted for the illegitimate purpose
19 of expressing hostility and animus towards a politically unpopular group. The intent
20 and effect of the Group Home Ordinance is to harm and thereby drive out groups of
21 people deemed undesirable by City officials.

22 139. The Group Home Ordinance bears no rational relationship to any
23 legitimate City interest. The Group Home Ordinance is not rationally related to any
24 City interest it purportedly serves.

25 **SIXTH CLAIM FOR RELIEF**

26 **Violates the Fourteenth Amendment (42 U.S.C. § 1983)**
27 **and California Constitution § 7 (Procedural Due Process)**
28

1 140. Plaintiffs reallege and incorporate by reference each and every
2 allegation set forth in the preceding paragraphs as though fully alleged herein.

3 141. The Rental Housing Ordinance (HESPERIA, CAL., CODE §
4 8.20.050(2015)), on its face and as applied to Plaintiffs, violates Plaintiffs' rights to
5 procedural due process.

6 142. The Rental Housing Ordinance threatens to deprive Plaintiffs of their
7 interest in their leasehold by subjecting their landlords to potential fines or
8 revocation of their rental license and by requiring and incentivizing their landlords
9 to initiate eviction proceedings against them without adequate procedural
10 protections.

11 143. The Ordinance is procedurally deficient because it requires Plaintiffs'
12 landlords to initiate eviction proceedings: (a) prior to any hearing regarding the
13 cause for eviction; (b) upon receipt of a general "notice" of criminal activity from
14 the Chief of Police (c) containing limited information about the alleged criminal
15 activity; (d) even if the tenant or resident was never convicted, charged, or even
16 arrested for any crime; (e) within 10 days, which is insufficient time for the landlord
17 to conduct his or her own investigation into the facts alleged in the notice.

18 144. The private interests at stake are considerably high.

19 145. The risk of error in Defendants' process is intolerably high and
20 additional or substitute procedural safeguards are needed.

21 146. Defendants have no legitimate interest in failing to provide additional
22 pre-deprivation process.

23 147. Post-deprivation remedies do not exist or cannot cure the lack of
24 process, and, in any event, are inadequate.

25 **SEVENTH CLAIM FOR RELIEF**

26 **Rental Housing Ordinance**

27 **Violation of Fourth and Fourteenth Amendments (42 U.S.C. § 1983)**

28 **and California Constitution, art. I, § 13**

1 **(Unlawful Search and Seizure)**

2 148. Plaintiffs reallege and incorporate by reference each and every
3 allegation set forth in the preceding paragraphs as though fully alleged herein.

4 149. The Rental Housing Ordinance (HESPERIA, CAL., CODE §
5 8.20.050(2015)) violates Plaintiffs' rights to be free from unreasonable searches
6 because it authorizes Defendants to conduct a warrantless, suspicionless search of
7 Plaintiffs' papers and business records, prior to any opportunity for precompliance
8 review by a neutral decisionmaker.

9 150. The Rental Housing Ordinance also effects an unreasonable seizure
10 because it unreasonably interferes with the possessory interest that Plaintiffs hold in
11 their leaseholds.

12 **EIGHTH CLAIM FOR RELIEF**

13 **Rental Housing Ordinance**

14 **Violation of California Constitution, art. I, § 1 (Right to Privacy)**

15 151. Plaintiffs reallege and incorporate by reference each and every
16 allegation set forth in the preceding paragraphs as though fully alleged herein.

17 152. Article I, section 1 of the California Constitution contains an express
18 privacy protection, added as a constitutional amendment by voter initiative, to deter
19 unnecessary collection of personal information by the government.

20 153. The Rental Housing Ordinance's (HESPERIA, CAL., CODE § 8.20.050
21 (2015)) tenant screening and "Crime Free Database" provisions violate the right to
22 information privacy under Article I, section 1 of the California Constitution.

23 **ACTUAL CONTROVERSY**

24 154. There exists an actual controversy between Plaintiffs and Defendants
25 as to each and every Claim for Relief alleged herein. Plaintiffs have suffered and
26 will continue to suffer ongoing and continuous injuries so long as the City continues
27 its policy and practice of enforcing its Group Home Ordinance and its Rental
28 Housing Ordinance.

REQUEST FOR RELIEF

Plaintiffs request relief as follows:

1. Assume jurisdiction of this matter;
2. Preliminarily and permanently enjoin Defendants and their directors, officers, agents, and employees from enforcing the Group Home Ordinance and the Rental Housing Ordinance against Plaintiffs and those similarly situated;
3. Certify a class under Rule 23 of the Federal Rules of Civil Procedure (or analogous procedures) as described above, pursuant to a motion for class certification;
4. Appoint Plaintiffs as Class Representatives;
5. Appoint Plaintiffs' counsel as Class Counsel;
6. Declare that Defendants' actions, policies and practices as described above constitute violations of federal and state statutory and constitutional law;
7. Declare that the Group Home Ordinance and the Rental Housing Ordinance are facially unconstitutional.
8. Award Plaintiffs their fees, expenses, costs, and other disbursements associated with the filing and litigation of this action, including reasonable attorneys' fees pursuant to any applicable provision of law; and
9. Award damages as proved at trial;
10. For such other relief as this Court deems just and proper.

Respectfully submitted,

ACLU FOUNDATION OF SOUTHERN
CALIFORNIA

DATED: May 4, 2016

By: /s/ Adrienna Wong
ADRIENNA WONG

Counsel for Plaintiffs

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